

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Scott Malcolm and Tim McGough, as Trustees
of the Carpenters & Joiners Welfare Fund,
Twin City Carpenters Pension Master Trust Fund,
and Twin City Carpenters Vacation Fund; Scott
Malcolm as Trustee of the Carpenters and Joiners
Apprenticeship and Journeymen Training Trust Fund,
and each of their successors,

Civil File No. 07-3747 (RHK/AJB)

Plaintiffs,

vs.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER FOR ENTRY OF JUDGMENT**

Nealen Halonen, individually, and d/b/a Neal
Halonen Construction,

Defendant.

This matter was heard before the undersigned on the 27th day of November, 2007. Amy L. Court of McGrann Shea Anderson Carnival Straughn & Lamb, Chartered, appeared for and on behalf of the Plaintiffs. There was no appearance on behalf of the Defendant.

FINDINGS OF FACT

1. The Summons and Complaint were filed with the Court on August 20, 2007. The service was accomplished upon Defendant on August 20, 2007.
2. Defendant has failed to file and serve a response or Answer to the Summons and Complaint.
3. Plaintiffs are trustees and fiduciaries of the above-referenced funds (the Funds). The Funds are multi-employer plans as defined by 29 U.S.C. § 1002(37). They

are established to provide, *inter-alia*, pension, health and welfare vacation benefits and training to employees doing carpentry work in the construction trades, and are maintained for the benefit of workers pursuant to a Collective Bargaining Agreement. All contributions must be made and all reports must be submitted to Wilson McShane, 3001 Metro Boulevard, Suite 500, Bloomington, MN 55425, as the administrative agent designated by the Trustees.

4. Defendant, through his execution of an Independent Agreement, is bound by a certain Collective Bargaining Agreement between the Lakes and Plains Regional Council of Carpenters and Joiners and the Carpentry Contractors Association and the Minnesota Drywall and Plaster Association.

5. The Collective Bargaining Agreement obligates Defendant, as an employer, to compute the contribution for each employee, submit that information on a report form, and pay those contributions to the Funds' Agent on or before the 15th day of the month following the month for which the contribution is being made.

6. The Collective Bargaining Agreement and Trust Agreements provide that an employer is liable for an additional 10% of all contributions, which are not timely submitted, for liquidated damages, and also provides that Plaintiffs are entitled to their attorney fees and costs.

7. Defendant has failed to timely submit the fringe fund reports and contributions for the months of June, July, and August, 2007.

8. After filing of the Complaint Defendant submitted the fringe fund reports for the months of June, July, and August, 2007. Per the reports, \$9,096.47 is due for

fringe benefit contributions. Per the terms of the Collective Bargaining Agreement, the total amount due for liquidated damages for the months of June, July, and August, 2007 is \$909.65.

9. After filing of the Motion for Entry of Judgment, Defendant submitted a payment in the amount of \$9,096.47.

10. The Collective Bargaining Agreement provides that Plaintiffs are entitled to their reasonable attorney fees and costs of this action. The attorney fees and costs reasonably incurred by the Plaintiffs in the prosecution of their claims total \$1,634.92.

CONCLUSIONS OF LAW

1. Defendant is in default, and Plaintiffs are entitled to Entry of Judgment.
2. Defendant owes the Funds \$9,096.47 for fringe benefit contributions for the months of June, July, and August, 2007.
3. Defendant owes the Funds \$909.65 for liquidated damages for the months of June, July, and August, 2007.
4. Defendant is entitled to a credit in the amount of \$9,096.47.
5. Defendant owes \$1,634.92 for attorney fees and costs.

ORDER

IT IS ORDERED:

1. That Plaintiffs' Motion for Entry of Judgment is granted.
2. That judgment in the amount of \$2,544.57 shall be entered against Defendant Nealen Halonen, individually, and d/b/a Neal Halonen Construction in favor of the Plaintiffs.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: November 27, 2007

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge